

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Shelley E. S. v. Bisignano

Shelley E. S. · No. 22cv1499-LR · Decided September 22, 2025

SUMMARY

The court granted in part counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b) following reversal of the Commissioner of Social Security’s decision and remand for calculation and award of benefits. It awarded counsel \$30,401.75, representing 25% of the claimant’s \$121,607.00 in past-due benefits. The court ordered counsel to reimburse the claimant \$8,946.28 in previously awarded EAJA fees.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Lupe Rodriguez, Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 22, 2025
DOCKET	22cv1499-LR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved for an award of attorney's fees under 42 U.S.C. § 406(b) after the court reversed the Commissioner's denial of benefits and remanded for calculation and award of benefits.
STANDARD OF REVIEW	The court independently reviewed the reasonableness of the contingent-fee agreement and requested § 406(b) fee award, considering the character of the representation, the results achieved, counsel's performance, any dilatory conduct, and whether the fee would constitute a windfall.
PRECEDENTIAL VALUE	Unknown; unpublished district court opinion
PARTIES	Shelley E. S. v. Frank Bisignano, Commissioner of Social Security

TOPICS

- judicial review of agency action
- administrative law
- remedies

PRACTICE AREAS

Social Security disability

attorney's fees

administrative law

QUESTIONS PRESENTED

1. Whether the requested attorney's fee award under 42 U.S.C. § 406(b) was reasonable and within the statutory limitation.
2. Whether the § 406(b) award had to be offset by EAJA fees previously awarded for the federal-court representation.

HOLDINGS

1. The requested fee of \$30,401.75 was reasonable and did not exceed the twenty-five-percent statutory ceiling because it represented twenty-five percent of Plaintiff's \$121,607.00 in past-due benefits.
2. Counsel was required to reimburse Plaintiff \$8,946.28, the cumulative amount of EAJA fees previously awarded for the federal-court representations.

KEY QUOTATIONS

"§ 406(b) does not displace contingent-fee agreements as the primary means by which fees are set for successfully representing Social Security benefits claimants in court. Rather, § 406(b) calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases." (at 2)

"Within the 25 percent boundary . . . the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered." (at 2)

"The Court further ORDERS Plaintiff's counsel, the Law Offices of Lawrence D. Rohlffing, Inc., CPC, to reimburse Plaintiff, Shelley E. S., \$8,946.28, the amount Plaintiff's counsel received under EAJA." (at 6)

FACTUAL BACKGROUND

Plaintiff sought judicial review of the denial of Social Security disability benefits. The court determined that the ALJ improperly discounted Plaintiff's subjective symptom testimony and improperly evaluated the opinion of consultative examiner Dr. Sial, and that those errors were not harmless. On remand for calculation and award of benefits, Plaintiff received \$121,607.00 in past-due benefits; counsel sought \$30,401.75, equal to twenty-five percent of that award.

PROCEDURAL HISTORY

Plaintiff filed an action under 42 U.S.C. § 405(g) seeking review of the Commissioner's denial of Social Security disability benefits. The court previously found that the ALJ improperly discounted Plaintiff's subjective symptom testimony and improperly evaluated the opinion of consultative examiner Dr. Sial, reversed the Commissioner's decision, and remanded for calculation and award of benefits. Plaintiff was subsequently awarded \$121,607.00 in past-due benefits, and the court had awarded \$5,600.00 in EAJA fees in this action, in

addition to \$3,346.28 awarded in the earlier federal action. The court granted the § 406(b) fee motion in the requested amount but ordered counsel to reimburse Plaintiff \$8,946.28 in EAJA fees.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002)
- *Crawford v. Astrue*, 586 F.3d 1142, 1151-52 (9th Cir. 2009)
- *Parrish v. Comm'r Soc. Sec. Admin.*, 698 F.3d 1215, 1216-18 (9th Cir. 2012)
- *Stone v. Berryhill*, 2018 WL 2317549, at *1, *6 (S.D. Cal. May 17, 2018)
- *Stone v. Berryhill*, 2018 WL 3327873, at *1-2 (S.D. Cal. July 6, 2018)
- *Culbertson v. Berryhill*, 586 U.S. 53, 54 (2019)
- *Ricardo A. v. Saul*, 2021 WL 718605, at *2 n.3 (S.D. Cal. Feb. 24, 2021)
- *Joel L. v. Bisignano*, 2025 WL 2231247, at *1-2 (S.D. Cal. Aug. 5, 2025)
- *Patrick S. v. Dudek*, 2025 WL 642012, at *1-2 (S.D. Cal. Feb. 26, 2025)
- *Richardson v. Colvin*, 2017 WL 1683062, at *1-2 (S.D. Cal. May 2, 2017)
- *Nash v. Colvin*, 2014 WL 5801353, at *2 (S.D. Cal. Nov. 7, 2014)
- *Ayersman v. Berryhill*, 2021 WL 37717, at *2 (S.D. Cal. Jan. 5, 2021)
- *Moreno v. Berryhill*, 2018 WL 3490777, at *3 (C.D. Cal. July 19, 2018)